

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

In re:

ORBIT PETROLEUM, INC.,

Debtor.

No. 08-10408-m11

MOTION TO DISMISS OR CONVERT

COMES NOW Claimants, Tipton Enterprises, Inc., Jerel Tipton, Clay Tipton, Ryan Tipton, Chase Tipton, Tipton Oil & Gas Acquisitions, Inc., TOGA Well Services, Inc., Gilbert Lease Services, Inc. & Black Rock Transportation, Inc. by and through their counsel, Louis Puccini, Jr., Puccini & Meagle, P.A. joined by Patriot Pipe & Supply, Inc. and move this Court for the entry of an Order pursuant to 11 U.S.C., § 1112, Rule 1017 of the Federal Rules of Bankruptcy Procedure and New Mexico Interim Rule 90-13-02. As grounds therefore, the Movants, state:

1. The Debtor filed a voluntary Chapter 11 on February 13, 2008. The First Meeting of Creditors was scheduled and held on March 13, 2008.

2. Upon information and belief, the Debtor has not filed its Operating Reports for March and April and they are already delinquent. Although this case is only three months old, the Debtor was strictly advised at the Creditor's Meeting to file its Operating Reports timely and its President, James Frasier represented that it had staff and accountants that would file the Operating Reports on a current basis. The Operating Reports in this case are more critical than in other Chapter 11 cases since Orbit is an oil and gas operating company and working and royalty interest owners and suppliers must be paid on a current basis or there is a risk of termination of the operating rights. On information and belief working and royalty interest holders have not been paid current or have not been paid the correct amount since filing the Chapter 11. Oil and working interest

holders have alleged that they have not been paid the amounts due prior to the filing of the Chapter 11 allowing the Debtor to continue to operate under these circumstances is creating additional losses for accounting and increasing expenses for Creditors including but not limited to the royalty and working interest holders.

3. The Debtor has not filed and paid its U.S. Trustee Reports and paid the fees. Upon information and belief, the Debtor has paid a minimum \$325 initial payment for the first quarter of 2008. However, the Debtors gross income and therefore expenditures are in the range of \$200,000.00 to \$300,000.00 per month. The Debtor has failed to file its Operating Reports so the total amount of U.S. Trustees fees is unknown, but it is clear that additional U.S. Trustees fees will be due.

4. At the Creditors Meeting the President James Frasier testified under oath that he would have the additional accountings completed on or about the first part of May which has not occurred.

5. The Debtor is delinquent on payments due to secured creditors including Western Commerce Bank and those loans which were previously secured to the First National Bank in Hobbs, Community National Bank of Lubbock, and others. At the Creditors Meeting, the President James Frazier indicated that the Debtor had money to make all secured payments and would bring the payments current. However, since then the Debtor has failed to make the payments due and is delinquent.

6. The Debtor's production is falling because the Debtor does not have sufficient cash flow to maintain the production.

7. The Debtor has not complied with its obligations and representations made by its President, James Frazier at the Creditors Meeting.

8. There has been and continues to be a substantial and continuing loss to the Estate and there is an absence of reasonable likelihood of rehabilitation. There has been an unauthorized use of cash collateral including cash due to the working and royalty interest holders, and upon information and belief cash collateral that may have been secured to one or more financial institutions.

9. The Debtor has failed to comply with the procedures required by applicable bankruptcy law including failure to comply with reporting requirements.

10. The Debtor also represented at the Creditors Meeting that it would file its tax returns but to date, to the knowledge of the Movant, the Debtor's tax returns have not been filed current and it is probable that the Debtor owes taxes.

11. Based upon preliminary information obtained by the Movant, the Debtor is not capable of reorganizing or filing a feasible Chapter 11 Plan.

12. Opposing counsel has not been contacted concerning the relief requested in this Motion and a Notice is being provided pursuant to applicable Federal Rules and local rules.

13. Creditor Patriot Pipe & Supply, Inc. joins in the Motion.

WHEREFORE Tipton Oil & Gas Company respectfully requests the Court to enter an Order
Converting and/or Dismissing this case on the grounds set forth herein.

Respectfully submitted,

PUCCINI & MEAGLE, P.A.

By /s/ Electronically Submitted 05/12/08
Louis Puccini, Jr.
Attorney for Tipton Oil & Gas
Company
PO Box 30707
Albuquerque, NM 87190-0707
Telephone: (505) 255-0202
Facsimile: (505) 255-8726
E-Mail: pmlaw@puccinilaw.com

I hereby certify that a true and correct copy of the foregoing was served by First Class U.S. Mail this _____ day of May, 2008, to the following:

Leonard K. Martinez-Metzgar
PO Box 608
Albuquerque NM 87103-0608
U.S. Trustee

Daniel J. Behles
226 Cynthia Loop NW Ste A
Albuquerque NM 87114-1100
Attorney for Debtor Orbit Petroleum, Inc.

James A. Askew
PO Box 1888
Albuquerque NM 87103-1888
Attorney for Creditor E.D. Walton Construction

Kevin Blaney
PO Box 657
Oklahoma City OK 73101-0657
Pro Se Interested Party

Linda S. Bloom
PO Box 218
Albuquerque NM 87103-0218
Attorney for Creditor Clay Tipton

Brian Matthew Catalano
PO Box 2776
Midland TX 79702-2776
Attorney for Creditor Tessco

Argo Partners
c/o Atty Matthew A. Gold
12 W 37th St
New York NY 10018

Moon Company
c/o Atty David Jones
PO Box 15008
Austin TX 79105-5008

PUCCINI & MEAGLE, P.A.

By _____ /s/
Louis Puccini, Jr.

Richard T. Chapman
PO Box 1969
Victoria TX 77902-1969
Attorney for Creditor Thomas Petroleum, LLC

George D. Giddens, Jr.
10400 Academy Rd NE Ste 350
Albuquerque NM 87111-1229
Attorney for Creditor B&W Oil Company

Gail Gottlieb
Sutin, Thayer & Browne
PO Box 1945
Albuquerque NM 87103-1945
Attorney for Creditor The First National Bank

James C. Jacobsen
111 Lomas Blvd NW Ste 300
Albuquerque NM 87102-2368
Attorney for NM Tax and Revenue Dept.

Michael T. Newell
Matthew T. Tucker
Heidel, Samberson, Newell, Cox & McMahon
PO Drawer 1599
Lovington NM 88260-1599
Attorney for Creditor Tom Bolin d/b/a Patriot Pipe and Supply

Bank of America NA
c/o Kevin Blaney
PO Box 657
Oklahoma City OK 73101-0657

Thomas Petroleum LLC
c/o Atty Richard T. Chapman
PO Box 1969
Victoria TX 77902

M.E.W. Enterprises Inc
c/o Atty Clarke C. Coll
PO Box 550
Roswell NM 88202

I:\K\T\Tipton\Pldgs\MtnDismissorConvert.052108.wpd
5901.01